

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 9652 OF 2015

SANDIP AASARAM PAWAR
VERSUS
THE STATE OF MAHARASHTRA THROUGH THE COLLECTOR AND
OTHERS

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Advocate for Petitioner : Shri Kale Ajeet B..
AGP for Respondents 1 and 2 / State : Shri N.T.Bhagat.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th September, 2017

Per Court:

1 The Petitioner is aggrieved by the judgment and order dated 30.08.2014 by which the competent court has rejected the LAR No.684/2010 (Old No.149/2009) on the ground that the Claimant has failed to lead oral and documentary evidence and his Advocate has failed to argue the matter finally. For lack of evidence, the competent court has dismissed the claim under Section 18 of the Land Acquisition Act, 1894.

2 Shri Kale, learned Advocate for the Petitioner, submits that after the land was acquired, which can be termed as being compulsory acquisition, the Petitioner had to leave the said place and relocate himself elsewhere. The land was acquired for construction of the percolation tank No.5 at village Dhoksal, District Jalna.

3 He submits that on account of the communication gap between the Petitioner and his Advocate, the cause of the Petitioner could not be espoused in the real sense of the term. Being a villager and practically a rustic person, he was unable to keep track of his matter. He does not benefit on account of causing delay in the matter.

4 The learned AGP appearing on behalf of Respondent Nos.1 and 2 submits that the proceedings before the LAR Court are with regard to the reference under Section 18 of the Land Acquisition Act, 1894. Eventually, if the Petitioner succeeds, he would also be entitled to ancillary benefits like interest on the amount which would be granted. It is only on account of the laxity on the part of the Petitioner that his LAR proceedings got rejected. If an opportunity to lead evidence is to be granted by restoring the LAR proceedings, the Petitioner needs to be deprived of interest from the date of rejection of the proceedings till the passing of this order.

5 Considering the above, I find that the ends of justice would be met by granting an opportunity to the Petitioner to lead evidence, by restoring the LAR proceedings. At the same time, since the LAR proceedings involve a money claim and as grant of compensation would entail interest, the Petitioner cannot be permitted to take advantage of his own laxity and negligence. It would be appropriate to deprive the Petitioner of interest on the amount which would eventually be granted if

he succeeds, from the date of the judgment 30.08.2014 till the passing of this order today.

6 This Court (Coram : S.V.Gangapurwala, J.) has also considered similar facts by the judgment dated 31.01.2013 in Writ Petition No.9550/2012 and group of petitions (Sonu Lotan Bhil and others vs. The Special Land Acquisition Officer and others) and has remanded the matter to the LAR Court.

7 In the light of the above, this Writ Petition is partly allowed in the following terms:-

- (a) The impugned order dated 30.08.2014 is quashed and set aside. LAR No.684/2010 is restored to the file of the learned second Joint Civil Judge, Senior Division, Jalna for enabling the Petitioner to lead evidence. Needless to state, the Respondents would also be at liberty to lead evidence.
- (b) The Petitioner and Respondent Nos.1 and 2 agree to appear in the LAR proceedings on 29.09.2017. Formal notices need not be issued by the Trial Court. However, since Respondent No.3, absent in the LAR proceedings, has not appeared even in this petition, the LAR Court may issue a notice of hearing to the said Authority which is situated at Jalna.
- (c) The Petitioner shall refrain from seeking unnecessary adjournment and shall render proper cooperation to the Court

below for the expeditious disposal of the LAR proceedings.

- (d) The LAR Court shall note that if the LAR proceedings are allowed, the Petitioner shall be deprived of the interest on the amount of compensation that would be granted, for the period from 30.08.2014 till 12.09.2017. No claim for interest, for this period, by the Petitioner shall be entertained by the Court below.

kps

(RAVINDRA V. GHUGE, J.)